

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 12, 2016

**SENATE BILL**

**No. 1332**

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**Introduced by Senator Mendoza**

February 19, 2016

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An act to amend Sections ~~11106 and 17060~~ 11106, 17060, 26600, 27050, 27600, and 31705 of, and to add Sections 27881 and 27882 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1332, as amended, Mendoza. Firearms.

Existing law requires the Attorney General to maintain a registry of all firearm owners consisting of the name, address, identification of, place of birth, complete telephone number, occupation, sex, description, and all legal names and aliases used by the owner of a particular firearm as listed on the Dealer's Record of Sale or other specified reports.

This bill would, commencing January 1, 2019, require the Department of Justice to modify its registration form so that both spouses or both domestic partners may register as the owners of the firearm and would require the department to maintain both names on the firearms registry.

Existing law also requires the Attorney General to maintain information regarding firearms from certain other reports pertaining to firearms ~~transactions~~. *transactions and authorizes specified officers, including peace officers, to disseminate information from specified reports if certain conditions are satisfied, including if the subject of the record has been arraigned for a crime.*

This bill would additionally require the Attorney General to maintain the information supplied to the Department of Justice in certain forms submitted by persons who take possession of a firearm pursuant to a specified exception to the general requirement that firearms transactions be completed through a licensed firearms ~~dealer~~. *dealer and would authorize information in those forms to be disseminated pursuant to the above provisions.*

Existing law requires the loan of a firearm to be conducted through a licensed firearms dealer. Existing law makes a violation of this requirement a crime.

The bill would create exceptions to the dealer requirement for a loan of a firearm that occurs at the individual receiving the firearm and lender's shared residence or private property and for a loan in which the firearm is being stored in the receiver's residence or in an enclosed structure on the receiver's private property, if certain criteria are met.

*This bill would incorporate changes to Section 11106 of the Penal Code proposed by both this bill and AB 857, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Under current state procedures, the initial acquisition process
- 4 to acquire a firearm includes, among other requirements, a
- 5 background check, a ~~Firearm Safety Certificate~~, *firearm safety*
- 6 *certificate*, and, upon completion of the process, registration of
- 7 that firearm to that person in the Centralized Registry as set forth
- 8 in Section 11106 of the Penal Code.
- 9 (2) The current background check and registration process
- 10 allows only one person to initially acquire and be the registered
- 11 owner of that firearm.
- 12 (3) The California Constitution provides that property owned
- 13 before marriage or acquired during marriage by gift, will, or
- 14 inheritance is separate property.
- 15 (4) Community property rights are protected through the Due
- 16 Process Clause and other clauses of the California Constitution.

1 (5) On July 20, 2015, the California Supreme Court in the case  
2 *In re Marriage of Davis* (2015) 61 Cal.4th 846 confirmed that  
3 Section 760 of the Family Code specifically allows property  
4 acquired by the spouses during the marriage not to be treated as  
5 community property where otherwise provided by statute.

6 (6) Allowing property acquired by spouses during the marriage  
7 not to be treated as community property where otherwise provided  
8 by statute was foreshadowed by the decision of the Court of  
9 Appeals in *Crosby v. H.L.C. Properties LTD* (2014) 223  
10 Cal.App.4th 597, 609, fn. 10.

11 (7) Under current law, a person who is licensed to carry a  
12 handgun in public is licensed to carry a specific handgun, and in  
13 many jurisdictions licensing authorities license both spouses to  
14 carry the same handgun, but in other jurisdictions licenses to carry  
15 will not be issued unless the handgun is first registered to the  
16 applicant.

17 (8) Because carry license information is reported to the  
18 Department of Justice and is required to be included in the  
19 Centralized Registry, joint registration is occurring today, albeit  
20 under the carry license system.

21 (9) Joint family firearm registration is expressly allowed for  
22 assault weapons and .50 BMG rifles.

23 (10) Joint spousal firearm registration exists in Hawaii,  
24 Maryland, and New York.

25 (11) Firearms initially constituting separate property may be  
26 jointly registered to a spouse via the transmutation process and via  
27 the operation of law procedures set forth in subdivision (g) of  
28 Section 16990 and paragraph (2) of subdivision (a) of Section  
29 27920 of the Penal Code, without being processed through a  
30 state-licensed firearms dealer. The clear intent of those provisions  
31 is to allow joint spousal registration via that process but not to  
32 otherwise permit joint registration. The amendments to Section  
33 11106 of the Penal Code made by the act that added this section,  
34 insofar as relevant, are designed to effectuate that intent.

35 (12) Also via the operation of law process, separate property of  
36 one spouse may be transmuted to another spouse as separate  
37 property.

38 (13) Firearms brought into this state by new residents which  
39 were acquired outside of this state by such persons when residents  
40 of that other state are being allowed to be jointly registered in

1 effect to both spouses pursuant to the procedures set forth in  
2 Section 27560 of the Penal Code, without being processed through  
3 a state-licensed firearms dealer. The amendments made to Section  
4 11106 of the Penal Code by the act that added this section, insofar  
5 as relevant, are designed to allow that to continue if it is occurring  
6 now.

7 (14) The Department of Justice, pursuant to Section 28000 of  
8 the Penal Code, allows a person to deregister a firearm if certain  
9 conditions are met, including, among other conditions, providing  
10 the department with official documentation that the firearm has,  
11 in fact, been disposed of. The amendments made to Section 11106  
12 of the Penal Code by the act that added this section, insofar as  
13 relevant, are designed to allow that to continue if it is occurring  
14 now.

15 (15) The process of deregistering a firearm by filing a form  
16 pursuant to Section 28000 of the Penal Code detailing the disposal  
17 of a firearm because the firearm was transferred to another requires  
18 submission to the department of a formal department-generated  
19 document stating that the firearm was reregistered. If the  
20 disposition form is not submitted pursuant to Section 28000 of the  
21 Penal Code, then a firearm may in effect be technically listed as  
22 being registered to both parties involved in the transfer.

23 (16) There are legitimate concerns that if joint firearm  
24 registration is explicitly allowed by virtue of the amendments made  
25 to Section 11106 of the Penal Code by the act that added this  
26 section, it may create a number of issues regarding third-party  
27 rights when the time comes to dispose of those jointly registered  
28 firearms. Those concerns exist now as to jointly registered .50  
29 BMG rifles and assault weapons.

30 (b) It is the intent of the Legislature, if joint firearm registration  
31 does not occur pursuant to the amendments made to Section 11106  
32 of the Penal Code by the act that added this section, to enact  
33 legislation that will go into effect prior to January 1, 2019, to  
34 implement an explicit joint firearm registration system in a  
35 user-friendly manner that protects public safety and does not  
36 complicate the disposition of firearms that are jointly registered.

37 (c) It is also the intent of the Legislature that the Department of  
38 Justice make available on its Internet Web site, in an editable public  
39 display format, the form referred to in Section 27882 of the Penal  
40 Code.

SEC. 2. Section 11106 of the Penal Code is amended to read:

11106. (a) (1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all of the following:

(A) All copies of fingerprints.

(B) Copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215.

(C) Information reported to the Department of Justice pursuant to Section 26225, 27875, 27920, 27966, or 29830.

(D) Dealers' records of sales of firearms.

(E) Reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585.

(F) Forms provided pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006.

(G) Reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms.

(H) Information provided pursuant to Section 28255.

(I) Reports of stolen, lost, found, pledged, or pawned property in any city or county of this state.

(2) The Attorney General shall, upon proper application therefor, furnish the information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

1 (F) Section 28255.

2 (G) Any other law.

3 (2) The registry shall consist of all of the following:

4 (A) The name, address, identification of, place of birth (state  
5 or country), complete telephone number, occupation, sex,  
6 description, and all legal names and aliases ever used by the owner  
7 or person being loaned the particular firearm as listed on the  
8 information provided to the department on the Dealers' Record of  
9 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
10 in former Section 12084, or reports made to the department  
11 pursuant to any provision listed in subdivision (a) of Section 16585,  
12 Section 28255, or any other law.

13 (B) The name and address of, and other information about, any  
14 person (whether a dealer or a private party) from whom the owner  
15 acquired or the person being loaned the particular firearm and  
16 when the firearm was acquired or loaned as listed on the  
17 information provided to the department on the Dealers' Record of  
18 Sale, the LEFT, or reports made to the department pursuant to any  
19 provision listed in subdivision (a) of Section 16585 or any other  
20 law.

21 (C) Any waiting period exemption applicable to the transaction  
22 which resulted in the owner of or the person being loaned the  
23 particular firearm acquiring or being loaned that firearm.

24 (D) The manufacturer's name if stamped on the firearm, model  
25 name or number if stamped on the firearm, and, if applicable, the  
26 serial number, other number (if more than one serial number is  
27 stamped on the firearm), caliber, type of firearm, if the firearm is  
28 new or used, barrel length, and color of the firearm, or, if the  
29 firearm is not a handgun and does not have a serial number or any  
30 identification number or mark assigned to it, that shall be noted.

31 (E) Commencing January 1, 2019, the name of the person and  
32 his or her spouse or domestic partner if the firearm is registered  
33 to ~~both individuals~~ *persons*. The department shall modify its  
34 registration forms to the extent necessary, if it has not already done  
35 so, so that both spouses or both domestic partners may register as  
36 the owners of the firearm. This subparagraph shall not require the  
37 department to change the Dealer's Record of Sale form.

38 (3) Information in the registry referred to in this subdivision  
39 shall, upon proper application therefor, be furnished to the officers  
40 referred to in Section 11105, to a city attorney prosecuting a civil

1 action, solely for use in prosecuting that civil action and not for  
2 any other purpose, or to the person listed in the registry as the  
3 owner or person who is listed as being loaned the particular firearm.

4 (4) If any person is listed in the registry as the owner of a firearm  
5 through a Dealers' Record of Sale prior to 1979, and the person  
6 listed in the registry requests by letter that the Attorney General  
7 store and keep the record electronically, as well as in the record's  
8 existing photographic, photostatic, or nonerasable optically stored  
9 form, the Attorney General shall do so within three working days  
10 of receipt of the request. The Attorney General shall, in writing,  
11 and as soon as practicable, notify the person requesting electronic  
12 storage of the record that the request has been honored as required  
13 by this paragraph.

14 (c) (1) If the conditions specified in paragraph (2) are met, any  
15 officer referred to in paragraphs (1) to (6), inclusive, of subdivision  
16 (b) of Section 11105 may disseminate the name of the subject of  
17 the record, the number of the firearms listed in the record, and the  
18 description of any firearm, including the make, model, and caliber,  
19 from the record relating to any firearm's sale, transfer, registration,  
20 or license record, or any information reported to the Department  
21 of Justice pursuant to any of the following:

22 (A) Section 26225, 27875, ~~or 27920~~, 27920, or 27966.

23 (B) Article 1 (commencing with Section 26700) and Article 2  
24 (commencing with Section 26800) of Chapter 2 of Division 6 of  
25 Title 4 of Part 6.

26 (C) Article 1 (commencing with Section 27500) of Chapter 4  
27 of Division 6 of Title 4 of Part 6.

28 (D) Chapter 5 (commencing with Section 28050) of Division  
29 6 of Title 4 of Part 6.

30 (E) Article 2 (commencing with Section 28150) of Chapter 6  
31 of Division 6 of Title 4 of Part 6.

32 (F) Article 5 (commencing with Section 30900) of Chapter 2  
33 of Division 10 of Title 4 of Part 6.

34 (G) Chapter 2 (commencing with Section 33850) of Division  
35 11 of Title 4 of Part 6.

36 (H) Any provision listed in subdivision (a) of Section 16585.

37 (2) Information may be disseminated pursuant to paragraph (1)  
38 only if all of the following conditions are satisfied:

39 (A) The subject of the record has been arraigned for a crime in  
40 which the victim is a person described in Section 6211 of the

1 Family Code and is being prosecuted or is serving a sentence for  
2 the crime, or the subject of the record is the subject of an  
3 emergency protective order, a temporary restraining order, or an  
4 order after hearing, which is in effect and has been issued by a  
5 family court under the Domestic Violence Protection Act set forth  
6 in Division 10 (commencing with Section 6200) of the Family  
7 Code.

8 (B) The information is disseminated only to the victim of the  
9 crime or to the person who has obtained the emergency protective  
10 order, the temporary restraining order, or the order after hearing  
11 issued by the family court.

12 (C) Whenever a law enforcement officer disseminates the  
13 information authorized by this subdivision, that officer or another  
14 officer assigned to the case shall immediately provide the victim  
15 of the crime with a “Victims of Domestic Violence” card, as  
16 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
17 of Section 13701.

18 (3) The victim or person to whom information is disseminated  
19 pursuant to this subdivision may disclose it as he or she deems  
20 necessary to protect himself or herself or another person from  
21 bodily harm by the person who is the subject of the record.

22 *SEC. 2.5. Section 11106 of the Penal Code is amended to read:*

23 11106. (a) (1) In order to assist in the investigation of crime,  
24 the prosecution of civil actions by city attorneys pursuant to  
25 paragraph (3) of subdivision (b), the arrest and prosecution of  
26 criminals, and the recovery of lost, stolen, or found property, the  
27 Attorney General shall keep and properly file a complete record  
28 of all of the following:

29 (A) All copies of fingerprints.

30 (B) Copies of licenses to carry firearms issued pursuant to  
31 Section 26150, 26155, 26170, or 26215.

32 (C) Information reported to the Department of Justice pursuant  
33 to Section 26225, 27875, 27920, 27966, 29180, or 29830.

34 (D) Dealers’ records of sales of firearms.

35 (E) Reports provided pursuant to Article 1 (commencing with  
36 Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or  
37 pursuant to any provision listed in subdivision (a) of Section 16585.

38 (F) Forms provided pursuant to Section 12084, as that section  
39 read prior to being repealed on January 1, 2006.



1 (G) Reports provided pursuant to Article 1 (commencing with  
2 Section 26700) and Article 2 (commencing with Section 26800)  
3 of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers'  
4 records of sales of firearms.

5 (H) Information provided pursuant to Section 28255.

6 (I) Reports of stolen, lost, found, pledged, or pawned property  
7 in any city or county of this state.

8 (2) The Attorney General shall, upon proper application therefor,  
9 furnish the information to the officers referred to in Section 11105.

10 (b) (1) The Attorney General shall permanently keep and  
11 properly file and maintain all information reported to the  
12 Department of Justice pursuant to the following provisions as to  
13 firearms and maintain a registry thereof:

14 (A) Article 1 (commencing with Section 26700) and Article 2  
15 (commencing with Section 26800) of Chapter 2 of Division 6 of  
16 Title 4 of Part 6.

17 (B) Article 1 (commencing with Section 27500) of Chapter 4  
18 of Division 6 of Title 4 of Part 6.

19 (C) Chapter 5 (commencing with Section 28050) of Division 6  
20 of Title 4 of Part 6.

21 (D) Any provision listed in subdivision (a) of Section 16585.

22 (E) Former Section 12084.

23 (F) Section 28255.

24 (G) *Section 29180.*

25 ~~(G)~~

26 (H) Any other law.

27 (2) The registry shall consist of all of the following:

28 (A) The name, address, identification of, place of birth (state  
29 or country), complete telephone number, occupation, sex,  
30 description, and all legal names and aliases ever used by the owner  
31 or person being loaned the particular firearm as listed on the  
32 information provided to the department on the Dealers' Record of  
33 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined  
34 in former Section 12084, or reports made to the department  
35 pursuant to any provision listed in subdivision (a) of Section 16585,  
36 ~~Section 28255, 28255 or 29180,~~ or any other law.

37 (B) The name and address of, and other information about, any  
38 person (whether a dealer or a private party) from whom the owner  
39 acquired or the person being loaned the particular firearm and  
40 when the firearm was acquired or loaned as listed on the

1 information provided to the department on the Dealers' Record of  
2 Sale, the LEFT, or reports made to the department pursuant to any  
3 provision listed in subdivision (a) of Section 16585 or any other  
4 law.

5 (C) Any waiting period exemption applicable to the transaction  
6 which resulted in the owner of or the person being loaned the  
7 particular firearm acquiring or being loaned that firearm.

8 (D) The manufacturer's name if stamped on the firearm, model  
9 name or number if stamped on the firearm, and, if applicable, the  
10 serial number, other number (if more than one serial number is  
11 stamped on the firearm), caliber, type of firearm, if the firearm is  
12 new or used, barrel length, and color of the firearm, or, if the  
13 firearm is not a handgun and does not have a serial number or any  
14 identification number or mark assigned to it, that shall be noted.

15 (E) *Commencing January 1, 2019, the name of the person and*  
16 *his or her spouse or domestic partner if the firearm is registered*  
17 *to both persons. The department shall modify its registration forms*  
18 *to the extent necessary, if it has not already done so, so that both*  
19 *spouses or both domestic partners may register as the owners of*  
20 *the firearm. This subparagraph shall not require the department*  
21 *to change the Dealer's Record of Sale form.*

22 (3) Information in the registry referred to in this subdivision  
23 shall, upon proper application therefor, be furnished to the officers  
24 referred to in Section 11105, to a city attorney prosecuting a civil  
25 action, solely for use in prosecuting that civil action and not for  
26 any other purpose, or to the person listed in the registry as the  
27 owner or person who is listed as being loaned the particular firearm.

28 (4) If any person is listed in the registry as the owner of a firearm  
29 through a Dealers' Record of Sale prior to 1979, and the person  
30 listed in the registry requests by letter that the Attorney General  
31 store and keep the record electronically, as well as in the record's  
32 existing photographic, photostatic, or nonerasable optically stored  
33 form, the Attorney General shall do so within three working days  
34 of receipt of the request. The Attorney General shall, in writing,  
35 and as soon as practicable, notify the person requesting electronic  
36 storage of the record that the request has been honored as required  
37 by this paragraph.

38 (c) (1) If the conditions specified in paragraph (2) are met, any  
39 officer referred to in paragraphs (1) to (6), inclusive, of subdivision  
40 (b) of Section 11105 may disseminate the name of the subject of

1 the record, the number of the firearms listed in the record, and the  
2 description of any firearm, including the make, model, and caliber,  
3 from the record relating to any firearm's sale, transfer, registration,  
4 or license record, or any information reported to the Department  
5 of Justice pursuant to any of the following:

6 (A) Section 26225, 27875, ~~or 27920~~, 27920, or 27966.

7 (B) Article 1 (commencing with Section 26700) and Article 2  
8 (commencing with Section 26800) of Chapter 2 of Division 6 of  
9 Title 4 of Part 6.

10 (C) Article 1 (commencing with Section 27500) of Chapter 4  
11 of Division 6 of Title 4 of Part 6.

12 (D) Chapter 5 (commencing with Section 28050) of Division  
13 6 of Title 4 of Part 6.

14 (E) Article 2 (commencing with Section 28150) of Chapter 6  
15 of Division 6 of Title 4 of Part 6.

16 (F) Article 5 (commencing with Section 30900) of Chapter 2  
17 of Division 10 of Title 4 of Part 6.

18 (G) Chapter 2 (commencing with Section 33850) of Division  
19 11 of Title 4 of Part 6.

20 (H) Any provision listed in subdivision (a) of Section 16585.

21 (2) Information may be disseminated pursuant to paragraph (1)  
22 only if all of the following conditions are satisfied:

23 (A) The subject of the record has been arraigned for a crime in  
24 which the victim is a person described in ~~subdivisions (a) to (f),~~  
25 ~~inclusive,~~ of Section 6211 of the Family Code and is being  
26 prosecuted or is serving a sentence for the crime, or the subject of  
27 the record is the subject of an emergency protective order, a  
28 temporary restraining order, or an order after hearing, which is in  
29 effect and has been issued by a family court under the Domestic  
30 Violence Protection Act set forth in Division 10 (commencing  
31 with Section 6200) of the Family Code.

32 (B) The information is disseminated only to the victim of the  
33 crime or to the person who has obtained the emergency protective  
34 order, the temporary restraining order, or the order after hearing  
35 issued by the family court.

36 (C) Whenever a law enforcement officer disseminates the  
37 information authorized by this subdivision, that officer or another  
38 officer assigned to the case shall immediately provide the victim  
39 of the crime with a "Victims of Domestic Violence" card, as

1 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
2 of Section 13701.

3 (3) The victim or person to whom information is disseminated  
4 pursuant to this subdivision may disclose it as he or she deems  
5 necessary to protect himself or herself or another person from  
6 bodily harm by the person who is the subject of the record.

7 SEC. 3. Section 17060 of the Penal Code is amended to read:

8 17060. (a) As used in Section 25135, “residence” means any  
9 structure intended or used for human habitation, including, but not  
10 limited to, houses, condominiums, rooms, motels, hotels,  
11 time-shares, and recreational or other vehicles where human  
12 habitation occurs.

13 (b) As used in Section 27881, “resides within the same  
14 residence” means that the individuals reside within the same  
15 structure intended or used for human habitation, including, but not  
16 limited to, houses, condominiums, and rooms, where human  
17 habitation occurs, but does not mean individuals who reside within  
18 discrete units of an apartment building, apartment complex, duplex,  
19 or other similar complex.

20 (c) As used in Section 27882, “residence” means any structure  
21 intended or used for human habitation, including, but not limited  
22 to, houses, condominiums, rooms, motels, hotels, and time-shares,  
23 but does not include a recreational or other vehicle where human  
24 habitation occurs.

25 SEC. 4. Section 26600 of the Penal Code is amended to read:

26 26600. (a) Section 26500 does not apply to any sale, delivery,  
27 ~~or transfer~~ *transfer, or loan* of firearms made to an authorized law  
28 enforcement representative of any city, county, city and county,  
29 or state, or of the federal government, for exclusive use by that  
30 governmental agency if, prior to the sale, delivery, ~~or transfer~~  
31 *transfer, or loan* of these firearms, written authorization from the  
32 head of the agency authorizing the transaction is presented to the  
33 person from whom the purchase, delivery, ~~or transfer~~ *transfer, or*  
34 *loan* is being made.

35 (b) Proper written authorization is defined as verifiable written  
36 certification from the head of the agency by which the purchaser  
37 or transferee is employed, identifying the employee as an individual  
38 authorized to conduct the transaction, and authorizing the  
39 transaction for the exclusive use of the agency by which that person  
40 is employed.

(c) Within 10 days of the date a ~~handgun, and commencing~~  
~~January 1, 2014, any firearm, is acquired by the agency, firearm~~  
~~is acquired or received by the agency pursuant to this section,~~ a  
record of the same shall be entered as an institutional weapon into  
the Automated Firearms System (AFS) via the California Law  
Enforcement Telecommunications System (CLETS) by the law  
enforcement or state agency. Any agency without access to AFS  
shall arrange with the sheriff of the county in which the agency is  
located to input this information via this system.

SEC. 5. Section 27050 of the Penal Code is amended to read:

27050. (a) Article 1 (commencing with Section 26700) and  
Article 2 (commencing with Section 26800) do not apply to any  
sale, delivery, ~~or transfer transfer, or loan~~ of firearms made to an  
authorized law enforcement representative of any city, county,  
city and county, or state, or of the federal government, for exclusive  
use by that governmental agency if, prior to the sale, delivery, ~~or~~  
~~transfer transfer, or loan~~ of these firearms, written authorization  
from the head of the agency authorizing the transaction is presented  
to the person from whom the purchase, delivery, ~~or transfer~~  
~~transfer, or loan~~ is being made.

(b) Proper written authorization is defined as verifiable written  
certification from the head of the agency by which the ~~purchaser~~  
~~purchaser, recipient,~~ or transferee is employed, identifying the  
employee as an individual authorized to conduct the transaction,  
and authorizing the transaction for the exclusive use of the agency  
by which that person is employed.

(c) Within 10 days of the date a ~~handgun, and commencing~~  
~~January 1, 2014, any firearm, is acquired by the agency, firearm~~  
~~is acquired or received by the agency pursuant to this section,~~ a  
record of the same shall be entered as an institutional weapon into  
the Automated Firearms System (AFS) via the California Law  
Enforcement Telecommunications System (CLETS) by the law  
enforcement or state agency. Any agency without access to AFS  
shall arrange with the sheriff of the county in which the agency is  
located to input this information via this system.

SEC. 6. Section 27600 of the Penal Code is amended to read:

27600. (a) Article 1 (commencing with Section 27500) does  
not apply to any sale, delivery, ~~or transfer transfer, or loan~~ of  
firearms made to, or the importation of firearms by, an authorized  
law enforcement representative of any city, county, city and county,

1 or state, or of the federal government, for exclusive use by that  
2 governmental agency if, prior to the sale, delivery, transfer, *loan*,  
3 or importation of these firearms, written authorization from the  
4 head of the agency authorizing the transaction is presented to the  
5 person from whom the purchase, delivery, ~~or transfer~~ *transfer, or*  
6 *loan* is being made or from whom the firearm is being imported.

7 (b) Proper written authorization is defined as verifiable written  
8 certification from the head of the agency by which the ~~purchaser~~  
9 *purchaser, recipient*, or transferee is employed, identifying the  
10 employee as an individual authorized to conduct the transaction,  
11 and authorizing the transaction for the exclusive use of the agency  
12 by which that person is employed.

13 (c) Within 10 days of the date a firearm is ~~acquired by the~~  
14 ~~agency~~, *acquired or received by the agency pursuant to this section*,  
15 a record of the same shall be entered as an institutional weapon  
16 into the Automated Firearms System (AFS) via the California Law  
17 Enforcement Telecommunications System (CLETS) by the law  
18 enforcement or state agency. Any agency without access to the  
19 AFS shall arrange with the sheriff of the county in which the  
20 agency is located to input this information via this system.

21 (d) Any agency that is the registered owner of an institutional  
22 weapon in accordance with subdivision (c) that subsequently  
23 destroys that weapon shall enter information that the weapon has  
24 been destroyed into the Automated Firearms System (AFS) via  
25 the California Law Enforcement Telecommunications System  
26 (CLETS) within 10 days of the destruction in accordance with  
27 procedures prescribed by the Department of Justice. Any agency  
28 without access to the AFS shall arrange with the sheriff of the  
29 county in which the agency is located to input this information via  
30 this system.

31 ~~SEC. 4.~~

32 *SEC. 7.* Section 27881 is added to the Penal Code, to read:

33 27881. Section 27545 does not apply to the loan of a firearm  
34 provided all of the following are met:

35 (a) The firearm being loaned is registered to the person making  
36 the loan pursuant to Section 11106.

37 (b) The loan occurs within the individual receiving the firearm  
38 and lender's shared place of residence or private property, which  
39 is not zoned for commercial, retail, or industrial activity.

1 (c) The firearm at all times stays within the individual receiving  
2 the firearm and lender's shared place of residence or private  
3 property, which is not zoned for commercial, retail, or industrial  
4 activity.

5 (d) The individual receiving the firearm is not prohibited by  
6 state or federal law from possessing, receiving, owning, or  
7 purchasing a firearm.

8 (e) The individual receiving the firearm is 18 years of age or  
9 older.

10 (f) The individual receiving the firearm has a valid firearm safety  
11 certificate, except that if the firearm being loaned is a handgun,  
12 the individual may instead have an unexpired handgun safety  
13 certificate.

14 (g) The person being loaned the firearm resides within the same  
15 residence as the lender.

16 ~~SEC. 5.~~

17 *SEC. 8.* Section 27882 is added to the Penal Code, to read:

18 27882. Section 27545 does not apply to the loan of a firearm  
19 provided all of the following are met:

20 (a) The firearm being loaned is registered to the person making  
21 the loan pursuant to Section 11106.

22 (b) The firearm being loaned is stored in the receiver's place of  
23 residence or in an enclosed structure on the receiver's private  
24 property, which is not zoned for commercial, retail, or industrial  
25 activity.

26 (c) The firearm at all times stays within the receiver's place of  
27 residence or in an enclosed structure on the receiver's private  
28 property, which is not zoned for commercial, retail, or industrial  
29 activity.

30 (d) The individual receiving the firearm is not prohibited by  
31 state or federal law from possessing, receiving, owning, or  
32 purchasing a firearm.

33 (e) The individual receiving the firearm is 18 years of age or  
34 older.

35 (f) The individual receiving the firearm has a valid firearm safety  
36 certificate, except that if the firearm being loaned is a handgun,  
37 the individual may instead have an unexpired handgun safety  
38 certificate.

39 (g) One of the following applies:

40 (1) The firearm is maintained within a locked container.

1 (2) The firearm is disabled by a firearm safety device.

2 (3) The firearm is maintained within a locked gun safe.

3 (4) The firearm is locked with a locking device, as defined in  
4 Section 16860, which has rendered the firearm inoperable.

5 (h) The loan does not exceed 30 days in duration.

6 (i) The loan is made without consideration.

7 (j) There is writing in a format prescribed by the Department  
8 of Justice that explains the obligations imposed by this section that  
9 is signed by both the party loaning the firearm for storage and the  
10 person receiving the firearm.

11 (k) Both parties to the loan have signed copies of the writing  
12 required by subdivision (j).

13 *SEC. 9. Section 31705 of the Penal Code is amended to read:*

14 31705. (a) Subdivision (a) of Section 31615 does not apply  
15 to any sale, delivery, ~~or transfer~~ transfer, or loan of firearms made  
16 to an authorized law enforcement representative of any city, county,  
17 city and county, or state, or of the federal government, for exclusive  
18 use by that governmental agency if, prior to the sale, delivery, ~~or~~  
19 ~~transfer~~ transfer, or loan of these firearms, written authorization  
20 from the head of the agency authorizing the transaction is presented  
21 to the person from whom the purchase, delivery, ~~or transfer~~  
22 transfer, or loan is being made.

23 (b) Proper written authorization is defined as verifiable written  
24 certification from the head of the agency by which the ~~purchaser~~  
25 purchaser, recipient, or transferee is employed, identifying the  
26 employee as an individual authorized to conduct the transaction,  
27 and authorizing the transaction for the exclusive use of the agency  
28 by which that person is employed.

29 (c) Within 10 days of the date a ~~handgun, and commencing~~  
30 ~~January 1, 2014, any firearm, is acquired by the agency, firearm~~  
31 *is acquired or received by the agency pursuant to this section*, a  
32 record of the same shall be entered as an institutional weapon into  
33 the Automated Firearms System (AFS) via the California Law  
34 Enforcement Telecommunications System (CLETS) by the law  
35 enforcement or state agency. Any agency without access to AFS  
36 shall arrange with the sheriff of the county in which the agency is  
37 located to input this information via this system.

38 *SEC. 10. The Legislature finds and declares that the*  
39 *amendments made to Sections 26600, 27050, 27600, and 31705*  
40 *of the Penal Code by this act are declaratory of existing law.*



1     *SEC. 11. Section 2.5 of this bill incorporates amendments to*  
2     *Section 11106 of the Penal Code proposed by both this bill and*  
3     *Assembly Bill 857. It shall only become operative if (1) both bills*  
4     *are enacted and become effective on or before January 1, 2017,*  
5     *(2) each bill amends Section 11106 of the Penal Code, and (3) this*  
6     *bill is enacted after Assembly Bill 857, in which case Section 2 of*  
7     *this bill shall not become operative.*

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